# COMCAST CABLE TV FRANCHISE RECOMMENDATION TO THE CITY OF TIGARD

Prepared by the Metropolitan Area Communications Commission
June 2015

On June 10, 2015, the Board of Commissioners of the Metropolitan Area Communications Commission (MACC) recommended, by a unanimous vote, that your City and the other fourteen MACC member jurisdictions grant Comcast of Oregon II, Inc. (Comcast) a 10-year renewal of the company's cable television franchise (see Exhibit A, MACC Recommending Resolution). A copy of the recommended franchise agreement and a Comparison of that agreement to the current Comcast franchise are enclosed with this report (see Exhibits B and C).

MACC staff and representatives of Comcast will be available at your meeting to answer any questions.

By the terms of the MACC Intergovernmental Agreement, to which your jurisdiction is a party, every affected MACC jurisdiction must adopt the franchise, as recommended, to renew the Comcast franchise – <u>if one jurisdiction votes no, it vetoes the franchise for the others</u>.

**The Recommended Agreement –** The recommended ten year franchise agreement retains the important financial, service and regulatory benefits that the member jurisdictions have relied on for the past 17 years of the existing franchise. It also includes technology updates for Tualatin Valley Community Televisions (TVCTV) programming such as high-definition equipment and transmission, as well as lower and guaranteed costs for the our jurisdictions' use of broadband network services provided by the Public Communication Network (PCN). The franchise is structured to make it comparable to the 2007 Frontier Franchise where applicable to maintain level playing field conditions, including updated customer services requirements.

## BACKGROUND

The City has been served by Comcast since 2002 under a franchise originally granted to AT&T Broadband in 1999. That franchise expired in 2014, but has been extended by action of MACC and the member jurisdictions twice.

Federal law (47 USC §546) sets out a three-year structure for (1) determining the area's cable related needs and interests (the "Needs Assessment") and (2) negotiating a renewed cable franchise. In the Spring of 2011, MACC, on behalf of its fifteen member jurisdictions, began a process to renew the cable television franchise of Comcast's local franchise holder, Comcast of Tualatin Valley, Inc. Federal law provides for a cable operator's continued use of the right of way as long as it meets certain requirements.[1]

Negotiations began in February 2013 and concluded on May 29, 2015.

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[1] 47 USC §546

## Highlights of the Franchise

Term. The recommended Franchise Agreement will run ten years, from July 1, 2015 through June 30, 2025. The current Comcast franchise will remain in effect as necessary through the franchise adoption process.

Gross Revenue Definition. The Gross Revenue definition is used to determine the basis on which a five percent Franchise Fee is paid. (Five percent is the maximum allowed under federal law.) The franchise definition is **substantively unchanged** from the current Comcast franchise. Comcast will continue to pay on each of the revenue streams the company receives from the use of its Cable System – except for the revenue gained from Comcast's Institutional Network (PCN) services (see *Institutional Network* below). This revenue will no longer be included as part of the company's "Gross Revenue." The result is an approximate 1.5% reduction in revenue, based on 2014 revenue.

Competition. The Comcast franchise was negotiated to maintain a level playing field environment for the increasingly competitive cable television market. The Verizon cable franchise (which was purchased by **Frontier Communications**, provides cable service in eleven member jurisdictions) was granted in 2007. The recommended Comcast franchise includes Frontier's updated customer service standards and other provisions to ensure the companies are operating under the same regulatory environment as much as possible. In addition, the franchise has a provision that allows for possible amendments should new technology or a new regulatory environment present itself. See the Franchise Comparison for more details.

PEG Access. All key PEG commitments are continued or improved in the recommended Franchise Agreement. MACC will continue to provide Public and Government Access, including the city and county meeting coverage provided by TVCTV. One **High Definition (HD) PEG channel** will be added to the Comcast channel lineup beginning this Fall. Additional HD PEG channels will continue to be added until all channels are in HD (at the time when all Basic channels are carried in HD). **Standard Definition (SD) channels** will continue to be simultaneously carried (until SD is no longer available) to ensure all subscribers have access to this programming.

Institutional Network (PCN). The PCN, MACC and Comcast's public data network, is the largest single change in the new Franchise Agreement. The Franchise provides Comcast with the ability to provide these **services through an Affiliate** (Metro-E). This change allows Comcast to have more individualized business-based relationships with the 20 jurisdictional and special district PCN customers. In return, PCN customers will have access to **significantly lower (averaging 25%) and steady (rates will no longer be subject to annual increases) costs,** as well as more options for levels of service.

PEG/PCN Fund. MACC currently receives $1.00 per subscriber per month from Comcast (a cost the company passes on to its subscribers), adding up to about $1,200,000 per year. This revenue supports PEG Access equipment needs and the operational and equipment expenses of PCN users. The new franchise agreement decreases the fee, and thus subscriber's cost, from $1.00 per month to 80¢ per month. However, MACC's net revenue is offset through the addition of approximately 25,000 Comcast subscribers in West Linn and portions of unincorporated Washington County – a result of uniting three separate Comcast franchises currently administered by MACC into this new Comcast franchise.*

MACC staff is comfortable that this Fund will continue to provide for a viable and strong PEG program and all of the critical support PCN Users have come to rely on for the last 17 years.

Customer Service. MACC was successful in establishing **standard Customer Service requirements** for all cable operators in the MACC jurisdictions, including:

- Telephone Availability requirements;
- Installation and Service requirements;
- Billing requirements and outage credits;
- Customer Complaint procedures;
- Notices to customers for channel lineup and rate changes; and
- Dozens of additional reliability, notice and information requirements.

Franchise Violations and Remedies. The Commission's ability to levy fines against Comcast is **capped** in this Franchise Agreement, at $75,000 per year, comparable to the level in the Frontier franchise. The Commission has not levied fines against Comcast that exceed this amount for more than ten years.

## PUBLIC COMMENT

MACC advertised the Commission meeting and solicited public comments in local area newspapers, as well as on the maccor.org website in March and June.

## CONCLUSION

Your MACC representative, along with the other MACC Commissioners, has recommended the Comcast Franchise Agreement as an excellent agreement that will serve the interests of cable subscribers for the next ten years. This recommended Franchise Agreement retains the basic elements and long-term benefits of the cable television franchises on which the Member Jurisdictions have come to rely — financial stability, the ability to meaningfully respond to customer service deficiencies, superior PEG Access programming and support, and the guarantee of an institutional network that meets the current and future needs of the area at a reduced cost for users.

A reminder: All 15 MACC Jurisdictions must approve the Franchise Agreement for it to become effective.

Attachment: Exhibit A – MACC Recommending Resolution 2015-05
Exhibit B – Recommended Comcast Franchise Agreement
Exhibit C – Comparison of the 1999 franchise to the 2015 franchise
Exhibit D – MACC Questions & Answers about the Recommended Franchise

* Note that similar PEG/PCN Fund provisions of the West Linn and a second unincorporated Washington County franchise expired along with those franchise requirements from 2005 through 2007, and will now be reinstated at this lower amount. MACC will respond to any customer inquiries.